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GOVERNMENT OF INDIA

MINISTRY OF LAW

New Delhi, the 17th May, 1949.

ORDINANCE No. VIII of 1949.

AN

ORDINANCE

to grant immediate relief to the tenants in Ajmer-Merwara in respect of rent and impositions, and to provide for certain other matters.

WHEREAS an emergency has arisen which makes it necessary to grant immediate relief to the tenants in Ajmer-Merwara in respect of rent and impositions, and to provide for certain other matters;

NOW, THEREFORE, in exercise of the powers conferred by section 42 of the Government of India Act, 1935 (26 Geo. 5. c. 2), the Governor-General is pleased to make and promulgate the following Ordinance:—

1. Short title, extent and commencement.—(1) This Ordinance may be called the Ajmer-Merwara Agrarian Relief Ordinance, 1949.

(2) It extends to the Province of Ajmer-Merwara.

(3) It shall come into force at once.

2. Definitions.—In this Ordinance, unless there is anything repugnant in the subject or context,—

(1) “assistant commissioner” includes an additional assistant commissioner and an extra assistant commissioner;

(2) “*batai*” means the division of the produce on the threshing-floor;

(3) “*bighori*” means money rent per *bigha* of land;

(4) “*confirming Court*” means a Court to which the record of a case is submitted in accordance with the provisions of this Ordinance for confirmation of an order or a decree passed therein;

(5) “*decree*” means an order which is drawn up in the form prescribed for a decree;

(6) "holding" means a parcel of land held by a tenant under one lease or one tenure;

(7) "khudkashit" means land cultivated by a proprietor, either by himself or by servants or by hired labour;

(8) "kuta" means an estimate or appraisement of the standing crop;

(9) "lag" means—
 (a) a levy in cash imposed on a tenant—
 (i) on the occasion of a ceremony in the family of the landlord or the tenant, or
 (ii) by way of a tax on a well or plough or as fee for settlement of rent accounts, or
 (b) any other levy in cash over and above the rent payable by a tenant;

(10) "land" means land which is let or held for the raising of crops or garden produce, or for purposes subservient thereto;

(11) "landholder" means the person to whom rent of a holding is, or but for a contract, express or implied, would be, payable;

(12) "measuring chain" means a chain of metal, thirty-three feet long;

(13) "neg" means—
 (a) a levy in kind imposed on a tenant as—
 (i) seri, sawai-batti or any other kind of levy made on the division of the produce of a holding, or
 (ii) kasas (dishes) of food or sweetmeats given on the occasion of marriage or any other ceremony or the money equivalent thereof, or
 (b) any other levy in kind over and above the rent payable by a tenant;

(14) "order" means the formal expression of a decision of any authority under this Ordinance;

(15) "pay", "payable" and "payment", when used with reference to rent, include "deliver", "deliverable" and "delivery";

(16) "prescribed" means prescribed by rules made under this Ordinance;

(17) "Province" means the Province of Ajmer-Merwara;

(18) "rent" means whatever is paid or payable, in cash or kind or partly in cash and partly in kind, by a tenant on account of the use or occupation of land held by him;

(19) "Revenue Court" means any of the following authorities, when acting under this Ordinance or any rule made thereunder, namely—
 (i) the Chief Commissioner,
 (ii) the collector,
 (iii) a sub-divisional officer,
 (iv) an assistant commissioner, and
 (v) a tahsildar,

Explanation.—For the purposes of this definition, the word "tahsildar" shall include a naib-tahsildar of not less than three years' standing;

(20) "tenant" means a person who holds the land of another person and is, or but for a contract, express or implied, would be, liable to pay rent for such land to such other person.

3. Effect of the Ordinance.—When this Ordinance comes into force—

(i) so much of any Act, Regulation or notification in force in Ajmer-Merwara as is inconsistent with this Ordinance shall be deemed to have been repealed thereby, and

(ii) notwithstanding any custom or contract to the contrary, every lease or agreement between a landholder and a tenant, whether made before or after the commencement of this Ordinance, which purports, or would operate, to prohibit or restrict a tenant from acquiring, exercising or enforcing any right conferred on, or secured to, him by this Ordinance shall become void to the extent of such prohibition or restriction.

4. Prohibition of certain levies.—No landholder shall—

(i) accept a premium for admitting a person to a holding, or

(ii) notwithstanding any custom or contract to the contrary, levy or recover from a tenant any *lag* or *neg*, by whatever name called or known, or

(iii) when rent is paid by *batai*, claim or receive any additional quantity of the produce or its money equivalent for cartage to his own residence or to any *inukar* place, or

(iv) realise any interest on rent, except as decreed by a Revenue Court, or

(v) employ his tenant, or make use of any cattle or any agricultural implement of his tenant, against the will of such tenant, whether for remuneration or not.

5. Bar of certain proceedings.—No Civil or Revenue Court shall entertain, hear or decide any proceeding for the establishment or enforcement of a claim, prohibited by this Ordinance.

6. Liability for payment of rent.—(1) With effect from the 1st day of June, 1949 every occupancy or exproprietary tenant or a tenant-at-will shall be liable to pay rent in accordance with the following scale:—

(a) an occupancy tenant	one-sixth of the produce of his holding ;
(b) an exproprietary tenant	one-eighth of the produce of his holding ;
(c) a tenant-at-will, other than a sub-tenant.	one-fifth of the produce of his holding ;

Provided that if, on the said date a lower rent is payable by a tenant or, after such date, a lower rent is agreed upon between him and his landholder, he shall be liable to pay such rent only:

Provided further that, if in any area *bighori* at customary rate is payable for any crop, a tenant may elect to pay such rate for such crop.

*Explanation.—*In this sub-section the expression "produce of his holding" shall not include the straw-chaff (*bhusa*) of the *rabi* or the dry stalks of *kharif* crop.

(2) Nothing contained in sub-section (1) shall apply to a claim for arrears of rent for *rabi* 1856 *Fasli* or any previous crop.

7. Liability in respect of produce.—(1) When rent is payable by *batai*, the tenant shall not be entitled to cut any portion of his crop or to remove it from the threshing-floor at such time or in such manner as to prevent the due division thereof at the proper time.

(2) If the tenant cuts or removes any portion of his crop in contravention of the provisions of sub-section (1), such crop shall, for the purpose of determining the share of the *far dho.dar*, be deemed to be equal to that of the best crop of the same kind grown at that harvest on similar land in the neighbourhood.

8. Application to make division.—(1) When the rent of any land is payable by *tauut*, the tenant or his *tahsildar* may, when the crop is ripe, apply to the *tahsildar*, requesting that an officer be deputed to make division thereof and, subject to the payment of the prescribed fee, the *tausiaar* shall, within ten days of such payment, depute an officer for the purpose.

(2) The officer so deputed shall proceed to the spot on a day of which notice shall be given to the landholder and the tenant, cause the crop to be cut or gathered and stored and, after such inquiry as he deems fit, get the produce divided in accordance with the shares to which the parties may be respectively entitled.

(3) The weightment charges or other expenses, if any, incurred in making the division shall be borne by the parties in proportion to their shares in the produce.

(4) In making the division, such officer shall take the assistance of assessors to be appointed, as nearly as may be, in accordance with the provisions of sub-sections (2) and (3) of section 10, draw up a note specifying the share of the produce delivered to each party, get it signed by them and submit it with his report to the *tahsildar*.

(5) Such officer shall not allow to be charged any levy prohibited by section 4 at the time of *batai*, and in his report to the *tahsildar* he shall state that no such levy was charged.

(6) If either the landholder or the tenant is dissatisfied with the division, he may, within fifteen days of such division, complain in writing to the *tahsildar* who shall inquire into the matter and, if necessary, pass a decree for money in favour of the party entitled, and submit the record of the case for confirmation of the decree or order passed by him to the sub-divisional officer. If no such complaint is made, the *tahsildar* shall confirm the note of the officer deputed.

(7) The sub-divisional officer may confirm, amend or set aside the decree or order.

(8) If a decree for money passed under sub-section (6) or (7) is against the tenant, it shall be deemed to be a decree for arrears of rent. If such decree is against the landholder, the amount thereof shall be recovered as arrears of revenue.

9. Application for *kuta*.—If, by an agreement between a landholder and his tenant, the *batai* rent of a holding is payable in cash by *kuta*, either party may apply in the prescribed form to the *tahsildar* to depute an officer to make the *kuta*.

10. Procedure on application.—(1) On receipt of an application under section 9 and on payment of the prescribed fee, the *tahsildar* shall, within ten days of such payment, issue a written notice to the landholder and the tenant to attend on such date and at such time and place as may be specified in the notice, and shall depute an officer by whom the *kuta* shall be made.

(2) On the day, and at the time and place so specified, such officer shall attend and call upon each party to appoint a resident of the neighbourhood as an assessor.

(3) If any party fails to attend, or refuses to appoint an assessor, such officer shall appoint an assessor on his behalf and shall, with the assistance of the assessors so appointed, make the *kuta* and deliver an award in the prescribed form and submit the same with a report of the proceedings to the *tansuwar*.

(4) The *tahsildar* shall issue notice to the parties to file objections, if any, to the award within fifteen days of the date of service of such notice and shall, after hearing such objections and making such inquiry, as he considers necessary, accept or modify such award and submit the record of the case for confirmation of the order passed by him to the sub-divisional officer.

(5) The sub-divisional officer may, after further inquiry, if necessary, confirm or modify the award.

(6) After the award has become final, the *tahsildar* shall assess the money value of the rent payable to the landholder at current market rates and pass a decree for arrears of rent against the tenant:

Provided that if, in any area, the Central Government has fixed a price for any agricultural produce, such price shall be accepted for making such assessment.

11. Assessment of *bighori* by Court.—In case of *bighori*—

(a) if the landholder or the tenant neglects to measure the area sown at the proper time, or

(b) if there is a dispute about the extent of the area sown, the length of the measuring chain, or the manner of measurement of such area, either party may make an application to the *tahsildar*, requesting that a measurer be appointed to measure such area.

With the application, the applicant shall deposit such fee as may be prescribed.

(2) The provisions of sub-sections (1), (2) and (3) of section 10 shall apply to an application made under this section, as if for the words "kuta" and "officer", wherever they occur in those sub-sections, the words "measurement" and "measurer" respectively were substituted.

(3) In making the measurement, the measurer shall use the measuring chain.

(4) On receipt of the award of the measurer, the *tahsildar* shall issue notice to the parties to file objections, if any, within fifteen days of the service of such notice and, after hearing such objections, pass a decree for the arrears of rent found due, and submit the record of the case for confirmation of the decree passed by him to the sub-divisional officer.

12. Claim for arrears of rent.—(1) If rent, which is payable by *batai*, *kuta*, or *bighori*, or in fixed money, has not been paid, or if the tenant has without sufficient cause, failed to cultivate his holding, the landholder may apply to the *tahsildar* for the recovery of arrears of rent.

(2) For purposes of the assessment of the rent recoverable under sub-section (1)—

(i) in case of *batai* and *kuta*, the provisions of sub-section (2) of section 7 shall apply, and

(ii) in cases of claim for rent other than a claim for fixed money rent, the entire area of the holding of the tenant shall, in the absence of

evidence to the contrary, be deemed to have been actually cultivated during the period to which the claim relates.

(3) The *tahsildar* shall decide the case and submit the record for confirmation of the decree passed by him to the sub-divisional officer.

13. Interest in cases of arrears of rent.—When a Revenue Court passes a decree for arrears of rent under the provisions of this Ordinance, it shall allow interest on the amount decreed from the date of such decree till the date of its satisfaction at the rate of one anna per rupee per annum simple interest unless, for reasons to be recorded in writing, it disallows the interest or allows interest at a lower rate.

14. Recovery of arrears in the event of general refusal to pay.—(1) In case of any general refusal to pay rent to persons entitled to collect the same in any area, the Chief Commissioner may, by notification in the official Gazette, declare that such rent may be recovered in accordance with the provisions of sub-section (2).

(2) In any area to which a notification made under sub-section (1) applies, a landholder entitled to collect such rent may, notwithstanding anything to the contrary contained in this Ordinance or any other law for the time being in force, apply in writing to the *tahsildar* to recover the same, and the *tahsildar* shall, after satisfying himself that the amount claimed is due, recover the same with costs as arrears of revenue, and submit the record of the case for confirmation of the orders passed, and the action taken, by him to the collector.

(3) The collector may, on examining the record, order that, after deducting the court fee assessed at seven and a half per cent. of the amount recovered as arrears of rent and also the collection charges from the amount so recovered, the balance shall be made over to the person entitled:

Provided that the collection charges shall not ordinarily exceed seven per cent. of the amount so recovered.

15. Procedure in ejection for decreed arrears.—(1) Immediately after a decree for arrears of rent has become final, the *tahsildar* shall cause a notice to be served on the tenant, stating the amount due under the decree and requiring him within thirty days from the service of the notice to pay such amount into the Court.

(2) If the amount is so paid, the *tahsildar* shall record satisfaction on the decree and grant a receipt therefor which shall operate as an acquittance for the amount deposited as if such amount had been received by the decree-holder and pay such amount to the person entitled to receive it.

(3) If the amount is not so paid, the *tahsildar* shall order the ejection of the tenant and submit the record of the case for confirmation of the order passed by him to the sub-divisional officer.

16. Remedies for wrongful ejection.—(1) A tenant ejected by his landholder otherwise than in accordance with the provisions of this Ordinance may apply to the sub-divisional officer—

(a) for possession of the holding; and

(b) for compensation for wrongful dispossession.

(2) If the sub-divisional officer finds that the tenant has been wrongfully ejected, he shall reinstate such tenant in his holding and award such monetary compensation as he deems fit, and submit the record of the case for confirmation of the order passed by him to the collector.

17. Ejectment of person occupying land without title.—(1) A person, other than a landholder to whom section 16 applies, taking or retaining possession of a plot of land without the consent of the person entitled to admit him to occupy such plot shall, on application made by the person so entitled to the sub-divisional officer, be liable to ejectment and to pay damages.

(2) If, on inquiry, the sub-divisional officer is satisfied that the person so taking or retaining possession is liable to ejectment, he shall order his ejectment, and award such damages as he deems fit and submit the record of the case for confirmation of the order passed by him to the collector.

18. Penalty for illegal entry on a holding.—If a landholder enters upon a holding in the possession of a tenant with the object of dispossessing him of such holding, otherwise than under the provisions of this Ordinance, such landholder shall be deemed to have committed an offence of criminal trespass within the meaning of the Indian Penal Code (Act XLV of 1860) and shall, notwithstanding anything in section 27 of the Ajmer Land and Revenue Regulation, 1877 (II of 1877), be liable to be prosecuted on the complaint of such tenant.

19. Compensation for illegal exaction and other matters.—(1) If a landholder commits any act prohibited by section 4, he shall, on the application of the tenant, be liable to pay to such tenant such monetary compensation as may be awarded under sub-section (2).

(2) An application under sub-section (1) shall be made to the sub-divisional officer who shall decide the case and submit the record for confirmation of the order passed by him to the collector.

20. Declaration of right in certain cases.—(1) In case of doubt or dispute, the landholder or the tenant may apply for a declaration as to any of the following matters:—

(i) the right of a person claiming to be a tenant or a joint tenant of a holding, or

(ii) whether a particular plot is *kundkash* of the landholder or is held by a tenant as his holding.

(2) Such application shall be filed in the Court of the sub-divisional officer who shall decide the case, and submit the record for confirmation of the order passed by him to the collector.

21. Submission for confirmation.—(1) A decree or an order which is not required by this Ordinance to be submitted to a confirming Court shall be final.

(2) When, under the provisions of this Ordinance, a Revenue Court is required to submit the record of a case to a confirming Court, it shall not comply with such provisions—

(i) unless any party to such case has, within seven days of the decree or the order passed therein, made an application bearing a court-fee stamp of the value of two rupees and eight annas to such Revenue Court, requesting that the record be submitted for confirmation; or

(ii) if the parties to the case apply in writing that they accept the decree or order passed as final; or

(iii) if such decree or order is passed on admission, or in terms of a compromise filed and verified by the parties, or is based on the award of an arbitrator appointed by them.

22. Form of order or decree.—(1) An order required by this Ordinance to be submitted for confirmation shall contain a concise statement of the case,

the points for determination, the decision thereon, and the reasons for such decision.

(2) A decree required by this Ordinance to be submitted for confirmation shall be prepared only in the cases, and in the form, prescribed.

23. Confirmation of decree or order.—When the record of a case is received by a confirming Court and the provisions of the section under which such record is submitted do not specify the manner of confirmation, such Court shall—

(i) call upon each of the parties to file, if he wishes to do so, a written statement setting forth, concisely and under distinct heads, the grounds of objection to the decree or order, numbered consecutively and without any argument or narrative;

(ii) treat the written statement of the party against whom the decision was given by the trial Court as memorandum of appeal, and that presented by the other party as memorandum of cross-objection; and

(iii) after hearing the parties or such of them as appear before him, pass an order which a Court of appeal may pass under the provisions of Order XLII of the Code of Civil Procedure, 1908 (Act V of 1908).

24. Provision for injunction and appointment of receiver.—(1) If, in the course of any proceeding under this Ordinance, it is proved by affidavit or otherwise—

(a) that any property, tree or crop to which such proceeding relates is in danger of being wasted, damaged or alienated by any party to such proceeding, or

(b) that any party to such proceeding threatens, or intends, to remove or dispose of the said property, tree or crop to defeat the ends of justice, the Revenue Court before which any such proceeding is pending may grant a temporary injunction and, if necessary, appoint a receiver.

(2) Any person against whom an injunction has been granted under sub-section (1) may offer to give cash security of an amount determined by the Court to compensate the other party in case the matter in dispute is decided against such person, and the Court may withdraw the injunction on his depositing such security.

25. Procedure of Revenue Courts.—(1) The Chief Commissioner may frame rules for regulating the procedure of Revenue Courts, and may, in doing so, modify any provision of the Code of Civil Procedure, 1908 (Act V of 1908) in its application to a proceeding before any such Court.

(2) Until such rules are framed and, subject to them when framed, the provisions of the Code of Civil Procedure, 1908 shall, except when they are inconsistent with anything in this Ordinance, apply to proceedings under this Ordinance.

26. Cases cognizable by Revenue Courts.—A case which is cognizable by a Revenue Court under this Ordinance shall be heard and decided by such Court and no Court other than a Revenue Court shall entertain, hear or decide any such case or any suit or application based on a cause of action in respect of which relief could be obtained under this Ordinance in a Revenue Court.

Explanation.—If the cause of action is one in respect of which relief might be granted by a Revenue Court, it is immaterial that the relief asked for from the Civil Court is different from, greater than, or additional to that which the Revenue Court could have granted.

27. Recovery of compensation or damages.—Any compensation or damages awarded under this Ordinance shall, if not paid into Court within the period specified by the Court, be recovered as arrears of revenue.

28. Certain powers of the Chief Commissioner and the collector.—(1) The Chief Commissioner may, by notification in the official Gazette, confer on an assistant commissioner or a sub-divisional officer all or any of the powers of a collector under this Ordinance to be exercised in respect of such cases or class of cases as may be specified therein.

(2) The collector may, by order in writing,—

(i) place an assistant commissioner in charge of a sub-division to be called sub-divisional officer, or

(ii) empower any assistant commissioner to entertain and decide cases submitted for confirmation of a decree or an order passed by a *tahsildar*, which a sub-divisional officer is empowered under this Ordinance to entertain and decide, or

(iii) transfer any case submitted to him or to any subordinate Court for confirmation of a decree or an order to any subordinate Court of competent jurisdiction, or

(iv) withdraw from any Court subordinate to him any case other than a case which is submitted to such Court for confirmation, and try such case himself or transfer it to any other subordinate Court of competent jurisdiction:

Provided that if the collector himself tries any case withdrawn under clause (iv), he shall submit the record for confirmation of the order passed by him in such case to the Chief Commissioner.

29. Power to make rules.—The Chief Commissioner may, by notification in the official Gazette, make rules to carry into effect the purposes of this Ordinance.

30. Stay of proceedings.—All proceedings for the ejectment of a tenant, whether pending at the commencement of this Ordinance or instituted thereafter, on a ground other than that mentioned in section 15, shall be, and remain, stayed as long as this Ordinance is in force.

C. RAJAGOPALACHARI,
Governor-General.

K. V. K. SUNDARAM,
Secy. to the Govt. of India.

